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A BRIEF OUTLINE OF THE LIFE AND WORKS OF

JUDGE COOLEY.

GEORGE A. KATZENBERGER.

The following sketch of the life of the man whom we all delight to honor, is neither a biography nor review, and makes no pretensions to literary merit. It is rather an effort to compress into the fewest words an outline of a busy life.

Thomas McIntyre Cooley was born at Attica, N. Y., January 6, 1824. His father, Thomas Cooley, was a Massachusetts farmer of the Puritan blood who settled in Attica with a large family in 1804, having invested his limited means in one hundred acres of wild timber land which he brought under cultivation with the help of his family.

The subject of this notice secured for himself a fair academic education, taught school for three terms, and having decided to study the law, began in the office of Theron R. Strong of Palmyra, N. Y., who afterwards became one of the judges of the supreme court of that state.

In 1843 he removed to Adrian, Mich., where he continued his legal studies in a private law office until 1846, when he was admitted to the bar. In the meantime he had held the office of deputy county clerk and register in chancery, performing practically all the official duties of his principal, and for a while he was editor of the "Watchtower".

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In January 1846 he entered the practice of law in Tecumsey, Mich., with Judge Consider A. Stacey. But he had not yet fully decided upon a permanent profession and for the next two years was associated with Mr. J. W. Scott as a dealer in real estate in Toledo, Ohio. He then returned to Adrian and became a partner of the Hon. F. C. Beman, an able lawyer afterwards in congress.

In 1850 he was elected Circuit Court Commissioner, and also Recorder of Adrian. In 1854 he was elected by the legislature of the state to compile the public statutes of Michigan from the earliest days, a duty which he performed to the general public satisfaction, classifying all the laws after a plan originating with himself and followed in the classifications made by his successors.

In 1857 he was appointed a reporter of the decisions of the supreme court. This office he held until 1864, publishing in the meantime eight volumes of reports.

In 1859 when the department of law was organized in the state university, the Jay Professorship was tendered to him and accepted. As the other professors appointed at the same time resided in the City of Detroit, and were not expected to change their residence, it became necessary for him to remove to Ann Arbor, which he did before taking up the duties to which he was chosen. He was lecturer on real estate law and the law of domestic relations from the first. He lectured also on Constitutional Law, which soon, from the demands made upon his attention, became the leading subject of discussion and continued to be such while he remained in the position. He was lecturer on Constitutional Law and Medical Jurisprudence from 1861 to 1865. After resigning as dean of the law department in 1884, he was appointed as professor of history and dean of the school of political science, a position which he held a number of years.

In November 1864 he was elected one of the justices of the supreme court of Michigan to fill a vacancy, and was re-elected in 1869 and again in 1877 for the full terms of eight years each, making his full service upon that court twenty-one years.

The honorary degree of LL.D. was conferred upon him in 1873, and in 1886 the same degree was given him by Harvard. Princeton University, also, in 1896 at its sesquicentennial celebration honored him in company with a number of distinguished people of this and other countries with the same degree.

In 1887, when the Interstate Commerce Law was to be put in operation, at the special solicitation of President Cleveland, he

accepted the office of chairman of the commission appointed to enforce it, the President speaking of the strong public opinion which called for the appointment and stating that it was in deference to that opinion that he tendered the office. This appointment necessitated his proceeding to Washington for the performance of the duties thereby imposed upon him and which were found to be very severe and laborious. The chairmanship in particular required great labor which he performed for the most part with little aid from a stenographer or other clerk. This he found to be gradually undermining his health and finally to such an extent that he was compelled to divest himself of a considerable portion of the active labor or resign the duties of the office altogether. This last resource he finally adopted and laid down his office in 1891 with the view of getting the rest which it was obvious he was in need of. He returned to Ann Arbor where he has since resided in comparative retirement.

Judge Cooley was married in 1846 to Mary Elizabeth Horton, a woman of accomplishments and rare ability, with whom he lived happily until her death in 1890, and by whom he had six children, all living.

Judge Cooley is better known, throughout the country, as an author than in any other capacity. The translators of von Holst's "Constitutional History of the United States" dedicated that famous work to Judge Cooley as "one of the most eminent expounders of our Constitution." His "Constitutional Limitations" which first appeared in 1868, is the work by which he is most widely known. It has passed through numerous editions, the sixth appearing in 1890, while an edition for students has been published since. An edition of Blackstone's Commentaries very fully annotated, with the view of its being used in the law schools of the country, has also appeared in several editions and has been universally received with satisfaction. An edition of Story on the Constitution has been edited by him, fully annotated, the fourth edition in two volumes appearing in 1873. He is also author of the following works: "Taxation" written especially with reference to taxation for state purposes, provided for in state constitutions, and appearing revised in 1886; A "Treatise on the Principle of the Law of Torts or Legal Wrongs of a Civil Nature" which has passed through several editions and been condensed for use in law schools, and "Constitutional Law" second edition, 1891. He edited E. B. Harrington's Michigan Chancery Reports of 1837-42 while the articles on Law in the second edition of the American Encyclopaedia were also edited by him. In 1885 he published a

"History of Michigan" as one of the American Commonwealth series begun by Houghton, Mifflin & Co. He further wrote an Introduction to "The American Railway" in 1887.

Inasmuch as Judge Cooley has not preserved all of his published papers and addresses, the following list is necessarily imperfect:

1. The Judicial Functions of Surveyors, 1852.
2. What the Law can do for the Health of the People. An address at a State Sanitary Convention.
3. Some Checks and Balances in Government, *International Review*, May and June, 1876.
4. The Cases in which the Master is Liable for Injuries, *Southern Law Review*, 1876.
5. Liability of Public Officers to Private Actions for Neglect of duty, *Southern Law Review*, 1887. (This paper opens with a sentence since widely quoted, "A public office is a public trust.")
6. Limits to State Control of Private Business, *Princeton Review*, March, 1878.
7. Changes in the Balance of Governmental Powers. Address to the Law Students of the University of Michigan, 1878.
8. The Surrender of Fugitives from Justice, *Princeton Review*, January, 1879.
9. The Recording Laws of the United States, their Inadequacy and their Danger. Address before the American Bar Association, 1881.
10. Presidential Inability, *North American Review*, Nov., 1881.
11. State Regulation of Corporate Profits, *North American Review*, September, 1883.
12. The Abnegation of Self Government, *Princeton Review*, November, 1883.
13. Law as an Educating Force. Address at the Law Commencement, University of Michigan, 1884.
14. What shall be done with our Ex-Presidents? Contribution to a Symposium, *The Century*, December, 1885.
15. Codification, *American Law Review*, May and June, 1886.
16. The Semi-Centennial of Michigan. Address delivered at the celebration of the State Semi-Centennial, 1886.
17. Arbitration in Labor Disputes, *The Forum*, June, 1886.
18. The influence of Habits of Thought upon our Institutions. Address before the South Carolina Bar Association, 1886.
19. The Acquisition of Louisiana. Address before the Indiana Historical Society, 1887.

20. The Uncertainty of the Law. Address before the Georgia Bar Association, 1887.

✓ 21. The Interstate Commerce Law: Its Operation and Results. Address before the Commercial Club of Boston, 1888.

22. On the Promulgation of the Constitution of Japan. Address at Johns Hopkins University, 1889.

23. Comparative Merits of Written and Prescriptive Constitutions. Address before the New York Bar Association, 1889. Printed in *Harvard Law Review*, March, 1889.

24. The Place of the Federal Supreme Court in the American Constitutional System. Address before the Political Science Association of the University of Michigan, 1889.

25. Methods of Appointing Presidential Electors, MICHIGAN LAW JOURNAL, Vol. I, No. 1, February, 1892.

26. Federal Taxation of Lotteries, *Atlantic Monthly*, April, '92.

27. Sovereignty in the United States, being a lecture delivered in a course on "Rights" to a class of Postgraduates in the Law Department of the University of Michigan. Printed in MICHIGAN LAW JOURNAL, April, 1892.

28. State Bank Issues in Michigan. Publication of the Michigan Political Science Association, No. I, May, 1893.

29. Federal Taxation of State Bank Issues, *Idem*.

30. The Power to amend the Federal Constitution. MICHIGAN LAW JOURNAL, April, 1893.

31. Grave Obstacles to Hawaiian Annexation, *The Forum*, April, 1893.

32. The President's Power to enforce Federal Laws. Letter to the President, 1893.

33. The Administration of Justice in the United States in Civil Cases. Address before the World's Fair Congress Auxiliary. Also in MICHIGAN LAW JOURNAL, September, 1893.

34. What the Senate should do to break the Deadlock over the repeal of the Sherman Bill, *N. Y. Evening Post*, October, 1893.

35. The Influence of Thought upon our Institutions. Rewritten and read at Ann Arbor, November 13, 1893.

36. Independence of the Legislative Department of Government. Argument before the Supreme Court of Michigan, 1893.

37. The Fundamentals of American Liberty, MICHIGAN LAW JOURNAL, June, 1894.

38. The Lawyer as a Teacher and a Leader, being a portion of the President's address read before the American Bar Association,

at the 17th annual meeting at Saratoga Springs, August 22, 1894. Printed in MICHIGAN LAW JOURNAL, September, 1894 and in *American Law Review*, Sept.-Oct. 1894.

39. An address on Compulsory Arbitration, at Ann Arbor, Nov. 17, 1894.

40. The Founding of the Law Department of the University of Michigan. To Wit: Senior Law Class Annual, 1894.

41. Nullification. An address in University Hall, Ann Arbor, April 24, 1895.

42. The Webster-Hayne Debate. Res Gestae, Senior Law Class Annual, 1895.

43. A Lawyer's Obligations to the Public, *American Magazine of Civics*, November, 1895.

44. Biographical Sketch of Judge Campbell. Res Gestae, 1896.

The labors of Judge Cooley in law schools have by no means been limited to the University of Michigan. He delivered two full courses of lectures on the law of Municipal Government and the evils connected therewith, to the students in Johns Hopkins University in the years 1878 and 1879, and a course of lectures on the Interstate Commerce Law in Yale University during the latter year. Also at different times lectures on different phases of legal-political institutions in Johns Hopkins University that have never been published, spending considerable time in the City of Baltimore and watching the development of that institution in which he was much interested.

He was President of the American Bar Association in the year 1893-94, and wrote the usual annual address directing his attention mainly to peculiar features of legal development going on at that time. His health at this time had become so bad that he was unable to be present at the annual meeting, and his address was read by another.

While in conformity with the plan adopted at the beginning of this contribution, we will not enlarge upon those faculties of Judge Cooley which have endeared him to all who have been so fortunate as to meet and hear him, yet we can not, in conclusion, but quote from a biography of Judge Cooley contributed by President Angell in the *To Wit*:

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